Holland & Knight

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31 West 52nd Street | New York, NY 10019 | T 212.513.3200 | F 212.385.9010
Holland & Knight LLP | www.hklaw.com

Timothy B. Froessel
(212) 513-3484
tim.froessel@hklaw.com

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DENISE COTE

January 31, 2011

Via Hand Delivery

Hon. Denise L. Cote, U.S.D.J.
United States District Court
500 Pearl Street, Room 1040
New York, New York 10007

Re: *Travelers Cas. and Sur. Co. v. Dormitory Authority of the State of New York, et al.*
Case No. 07 Civ. 6915 (DLC)

Dear Judge Cote:

As the Court is aware, the Dormitory Authority of the State of New York ("DASNY"), TDX Construction Corp. ("TDX"), Kohn Pedersen Fox Associates, P.C. ("KPF"), Travelers Casualty and Surety Company ("Travelers"), and Trataros Construction, Inc. ("Trataros") (jointly referred to as the "Settling Parties") have entered into a Settlement Agreement. This settlement significantly modifies the alignment of the parties in the case and resolves many of the substantive issues in dispute. Therefore, the current Joint Pretrial Order does not accurately reflect the current status of the case.[1]

Specifically, DASNY, TDX and KPF request leave to amend the following sections of the Joint Pretrial Statement that were submitted on behalf of Settling Parties:

- Section iv. – Brief Summary of Claims and Defenses;
- Section v. – Statement Regarding Length of Trial and Jury Request;
- Section ix. – Deposition Designations;
- Section xi. – Proposed Jury Voir Dire Questions; and
- Section xii. – Requests to Charge Jury.

[1] Travelers and Trataros have assigned their remaining claims and defenses in this litigation to DASNY pursuant to the Settlement Agreement. As a result, portions of Travelers' and Trataros' active claims, as well as portions of Travelers' and Trataros' defenses to claims, should be amended to reflect this change in status. Likewise, the Deposition Designations must be edited to remove unnecessary testimony and ensure that all designations are consistent with the claims that remain active in this litigation. Moreover, the parties' proposed Voir Dire and Requests to Charge Jury must be edited (1) to strike information that is no longer relevant and will not be presented to the jury; and (2) to set forth additional instructions that must be provided to the jury in light of the Settlement.

The amendments that DASNY seeks to make to these sections extend beyond the amendments required by the Court's January 25, 2011 Order. Prior to sending this letter, we asked counsel for Bartec Industries, Inc., Carolina Casualty Insurance Company, G.M. Crocetti, Inc., and Dayton Superior Corporation whether they wished to join in this application. Each party declined.

Should the Court grant the request sought in this letter, DASNY will provide the Court with: (1) a redline version of the Joint Pretrial Order indicating the edits described above; and (2) a clean version incorporating DASNY's amendments into the Joint Pretrial Order by the close of business tomorrow.

We thank the Court for its attention to this request.

Respectfully submitted,

Timothy B. Froessel

cc: All Counsel of Record (via e-mail)

Granted.
Denise Cote
Feb. 1, 2011